UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET
DALLAS, TEXAS 75270-2102

JUL 24 2019

CERTIFIED MAIL – RETURN RECEIPT REQUESTED: 7015 1520 0003 3989 6364

Mr. John Special, Owner
Special Energy Corporation
4815 S. Perkins Road
Stillwater, Oklahoma 74074

Re: Notice of Proposed Assessment of Class I Civil Penalty
Docket Number: CWA-06-2019-1796
Facility Number: OKU000873

Dear Mr. Special:

Enclosed is an Administrative Complaint (Complaint) issued to Special Energy Corporation, for violations of Section 301(a) of the Clean Water Act (CWA). The violations were identified during inspections that occurred on August 28, 2018 conducted by the Environmental Protection Agency (EPA). The inspections were conducted at your oil field disposal and production area known as the Ramsey Lease located near Stillwater, Payne County, Oklahoma. The violations alleged are for the unauthorized discharge of pollutants, specifically oil field brine and produced water, to waters of the United States. Administrative Order, Docket Number CWA-06-2019-1716 was issued to Respondent on November 16, 2018 addressing the same violation.

You have the right to request a hearing regarding the violation alleged in the Complaint and the proposed administrative civil penalty. For information regarding hearing and settlement procedures, please refer to Part 22, "Consolidated Rules of Practice," which can be found at https://www.epa.gov/enforcement/consolidated-rules-practice-40-cfr-part-22-administrative-assessment-civil-penalties. Please pay attention to Section V of the Complaint entitled "Notice of Opportunity to Request a Hearing." Note that should you fail to request a hearing within thirty (30) days of receipt of the Complaint, you will waive your right to such a hearing, and the proposed civil penalty of $12,000.00 may be assessed against you without further proceedings. You have the right to be represented by an attorney or to represent yourself at any stage of these proceedings.

Whether or not you request a hearing, we invite you to confer informally with EPA concerning the alleged violation and the amount of the proposed penalty. You may represent Special Energy Corporation, or be represented by an attorney at any conference, whether in person or by telephone. EPA encourages all parties against whom it files a Complaint proposing assessment of a penalty to pursue the possibility of settlement as a result of an informal conference.

EPA is committed to ensuring compliance with the requirements of the CWA and the National Pollutant Discharge Elimination System program and my staff will assist you in

any way possible. If you have any questions, or wish to discuss the possibility of a settlement of this matter, please contact Jeanne Eckhart, of my staff, at (214) 665-8174.

Sincerely,

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Enclosure

cc: Mr. Roger Pearman, District One Manager
Oklahoma Corporation Commission
115 West 6th Street
Bristow, Oklahoma 74010

Mr. Travis Mensik, Regional Manager
Oklahoma Department of Environmental Quality
217 W. 5th Ave., Suite 5
Stillwater, Oklahoma 74074-4056

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED
2019 JUL 25 AM 9:37

In the Matter of:	§	Docket No. CWA-06-2019-1796
	§	
Special Energy Corporation	§	Proceeding to Assess a Class I
	§	Civil Penalty under Section 309(g)
	§	of the Clean Water Act
Respondent	§	
	§	
Facility Number:	§	
OKU000873	§	Administrative Complaint

I. Statutory Authority

This Complaint is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 309(g) of the Clean Water Act ("the Act"), 33 U.S.C. § 1319(g). The Administrator of EPA delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6, who delegated this authority to the Director of the Enforcement and Compliance Assurance Division of EPA Region 6 ("Complainant"). This Class I Administrative Complaint is issued in accordance with, and this action will be conducted under, the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," 40 C.F.R. Part 22, including rules related to administrative proceedings not governed by Section 554 of the Administrative Procedure Act, 40 C.F.R. §§ 22.50 through 22.52.

Based on the following Findings, Complainant finds that Special Energy Corporation ("Respondent") violated the Act and the regulations promulgated under the Act and should be ordered to pay a civil penalty.

II. Findings of Fact and Conclusions of Law

1. Respondent is a corporation which is incorporated under the laws of the State of Texas, doing business in the State of Oklahoma, and as such, Respondent is a "person," as that term is defined at Section 502(5) of the Act, 33 U.S.C. § 1362(5) and 40 C.F.R. § 122.2.

2. At all times relevant to this action ("all relevant times"), Respondent owned or operated an oil field disposal and production facility known as the Ramsey Lease, located near Stillwater, Payne County, Oklahoma ("facility") and was, therefore, an "owner or operator" within the meaning of 40 C.F.R. § 122.2.

3. At all relevant times, the facility acted as "point source" of a "discharge" of "pollutants," specifically oil field brine, to the tributary of Wild Horse Creek, which is considered a "water of the United States" within the meaning of Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.

4. Because Respondent owned or operated a facility that acted as a point source of a discharge of pollutants to a water of the United States, Respondent and the facility were subject to the Act and the National Pollutant Discharge Elimination System ("NPDES") program.

5. Under Section 301 of the Act, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from a point source to waters of the United States, except with the authorization of, and in compliance with, an NPDES permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342. According to the NPDES program, the discharge of oil field brine to "waters of the United States" is a non-permitted discharge.

6. On August 28, 2018, an EPA inspector observed that pollutants, specifically oil field wastes and produced water generated from oil production activities, had been discharged from the Ramsey Lease facility to "waters of the United States," as that term is defined by 40 C.F.R. § 122.2. Pollutants were discharged to the tributary of Wild Horse Creek, which is considered a "water of the United States." The inspector determined that the water located at the discharge point of entry into the tributary of Wild Horse Creek (Latitude 36.035107N and Longitude -97.131449W) was contaminated from produced water discharges and measured over 125,000 milligrams per Liter ("mg/L") Total Dissolved Solids ("TDS").

7. On August 28, 2018, the EPA inspector observed approximately five dead fish in the tributary of Wild Horse Creek.

8. Each day of unauthorized discharge was a violation of Section 301 of the Act, 33 U.S.C. § 1311.

9. Under Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), as modified by 40 C.F.R. Part 19, Respondent is liable for a civil penalty in an amount not to exceed $21,933 per day for each day during which a violation occurs or continues, up to a maximum of $54,833.

10. EPA has notified the Oklahoma Corporation Commission and the Oklahoma Department of Environmental Quality of the issuance of this Complaint and has afforded these agencies an opportunity to consult with EPA regarding the assessment of an administrative penalty against Respondent as required by Section 309(g)(1) of the Act, 33 U.S.C. § 1319(g)(1).

11. EPA has notified the public of the filing of this Complaint and has afforded the public thirty (30) days in which to comment on the Complaint and on the proposed penalty as required by Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A). At the expiration of the notice period, EPA will consider any comments filed by the public. The public notification can be found at: https://www.epa.gov/publicnotices.

III. Proposed Penalty

12. Based on the foregoing Findings, and pursuant to the authority of Sections 309(g)(1) and (g)(2)(A) of the Act, 33 U.S.C. §§ 1319(g)(1) and (g)(2)(A), EPA Region 6 hereby proposes to assess against Respondent a civil penalty of twelve thousand dollars ($12,000.00).

13. The proposed penalty amount was determined based on the statutory factors specified in Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), which include such factors as the nature, circumstances, extent and gravity of the violations, economic benefits, if any, prior history of such violations, if any, degree of culpability, and such matters as justice may require.

14. Complainant has specified that the administrative procedures specified in 40 C.F.R. Part 22, Subpart I, shall apply to this matter, and the administrative proceedings shall not be governed by Section 554 of the Administrative Procedure Act.

IV. Failure to File an Answer

15. If Respondent wishes to deny or explain any material allegation listed in the above Findings or to contest the amount of the penalty proposed, Respondent must file an Answer to this Complaint within thirty (30) days after service of this Complaint whether or not Respondent requests a hearing as discussed below.

16. The requirements for such an Answer are set forth at 40 C.F.R. § 22.15 (found at: https://www.epa.gov/enforcement/consolidated-rules-practice-40-cfr-part-22-administrative-assessment-civil-penalties). Failure to file an Answer to this Complaint within thirty (30) days of service of the Complaint shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to hearing. Failure to deny or contest any individual material allegation contained in the Complaint will constitute an admission as to that finding or conclusion under 40 C.F.R. § 22.15(d).

17. If Respondent does not file an Answer to this Complaint within thirty (30) days after service, a Default Order may be issued against Respondent pursuant to 40 C.F.R. § 22.17. A Default Order, if issued, would constitute a finding of liability, and could make the full amount of the penalty proposed in this Complaint due and payable by Respondent without further proceedings thirty (30) days after a Final Default Order is issued.

18. Respondent must send its Answer to this Complaint, including any request for a hearing, and all other pleadings to:

Regional Hearing Clerk
U.S. EPA, Region 6
1201 Elm Street
Dallas, Texas 75270-2102

19. Respondent shall also send a copy of its Answer to this Complaint to the following EPA attorney assigned to this case:

Mr. Rusty Herbert (6ORCW)
U.S. EPA, Region 6
1201 Elm Street
Dallas, Texas 75270-2102

20. The Answer must be signed by Respondent, Respondent's counsel, or other representative on behalf of Respondent and must contain all information required by 40 C.F.R. §§ 22.5 and 22.15, including the name, address, and telephone number of Respondent and Respondent's counsel. All other pleadings must be similarly signed and filed.

V. Notice of Opportunity to Request a Hearing

21. Respondent may request a hearing to contest any material allegation contained in this Complaint, or to contest the appropriateness of the amount of the proposed penalty, pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g). The procedures for hearings are set out at 40 C.F.R. Part 22, including 40 C.F.R. §§ 22.50 through 22.52.

22. Any request for hearing should be included in Respondent's Answer to this Complaint; however, as discussed above, Respondent must file an Answer meeting the requirements of 40 C.F.R. § 22.15 in order to preserve the right to a hearing or to pursue other relief.

23. Should a hearing be requested, members of the public who commented on the issuance of the Complaint during the public comment period will have a right to be heard and to present evidence at such hearing under Section 309(g)(4)(B) of the Act, 33 U.S.C. § 1319(g)(4)(B).

VI. Settlement

24. EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, Respondent may confer informally with EPA about the alleged violations or the amount of the proposed penalty. Respondent may wish to appear at any informal conference

or formal hearing personally, by counsel or other representative, or both. To request an informal conference on the matters described in this Complaint, please contact Jeanne Eckhart, of my staff, at (214) 665-8174.

25. If this action is settled without a formal hearing and issuance of an opinion by the Presiding Officer pursuant to 40 C.F.R. § 22.27, this action will be concluded by issuance of a Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. § 22.18(b). The issuance of a CAFO would waive Respondent's right to a hearing on any matter stipulated therein or alleged in the Complaint. Any person who commented on this Complaint would be notified and given an additional thirty (30) days to petition EPA to set aside any such CAFO and to hold a hearing on the issues raised in the Complaint. Such a petition would be granted and a hearing held only if the evidence presented by the petitioner's comment was material and was not considered by EPA in the issuance of the CAFO.

26. Neither assessment nor payment of a penalty in resolution of this action will affect Respondent's continuing obligation to comply with all requirements of the Act, the applicable regulations and permits, and any separate Compliance Order issued under Section 309(a) of the Act, 33 U.S.C. § 1319(a), including one relating to the violations alleged herein.

July 24, 2019
Date

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division

CERTIFICATE OF SERVICE

I certify that the foregoing Class I Administrative Complaint was sent to the following persons, in the manner specified, on the date below:

Original hand-delivered:
Regional Hearing Clerk
U.S. EPA, Region 6
1201 Elm Street
Dallas, Texas 75270-2102

Copy by certified mail, return receipt requested:
Mr. John Special, Owner
Special Energy Corporation
4815 S. Perkins Road
Stillwater, Oklahoma 74074

Copy by mail or email:
Mr. Roger Pearman, District One Manager
Oklahoma Corporation Commission
115 West 6th Street
Bristow, Oklahoma 74010

Mr. Travis Mensik, Regional Manager
Oklahoma Department of Environmental Quality
217 W. 5th Ave., Suite 5
Stillwater, Oklahoma 74074-4056

Copy hand-delivered:
Mr. Rusty Herbert (6ORCW)
U.S. EPA, Region 6
1201 Elm Street
Dallas, Texas 75270-2102

Dated: JUL 24 2019

Jackie Allen

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET
DALLAS, TEXAS 75270-2102

JUL 24 2019

CERTIFIED MAIL – RETURN RECEIPT REQUESTED: 7005 1820 0003 7458 2154

Mr. Roger Pearman, District One Manager
Oklahoma Corporation Commission
115 West 6th Street
Bristow, Oklahoma 74010

Re: Notice of Proposed Administrative Class I Civil Penalty Assessment
Docket Number: CWA-06-2019-1796
Facility Number: OKU000873

Dear Mr. Pearman:

Enclosed is a copy of the Administrative Complaint (Complaint) which the Environmental Protection Agency (EPA) is issuing to Special Energy Corporation (Respondent), pursuant to Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g). EPA is issuing the Complaint to administratively assess a Class I civil penalty of $12,000.00 against Respondent for violations of the CWA. Because the violations occurred near Stillwater, Payne County, Oklahoma, I am offering you an opportunity to confer with us regarding the proposed penalty assessment.

You may request a conference within two weeks of receipt of this letter. The conference may be in person or by telephone and may cover any matters relevant to the proposed penalty assessment. If you wish to request a conference, or if you have any comments or questions regarding the matter, please contact Jeanne Eckhart, of my staff, at (214) 665-8174.

Sincerely,

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET
DALLAS, TEXAS 75270-2102

JUL 24 2019

CERTIFIED MAIL – RETURN RECEIPT REQUESTED: 7014 0150 0000 2454 8997

Mr. Travis Mensik, Regional Manager
Oklahoma Department of Environmental Quality
217 W. 5th Ave., Suite 5
Stillwater, Oklahoma 74074-4056

Re: Notice of Proposed Administrative Class I Civil Penalty Assessment
Docket Number: CWA-06-2019-1796
Facility Number: OKU000873

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Sincerely,

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Enclosure